

<b>POLICE/SHERIFF'S DEPARTMENT</b>		<b>RULES AND REGULATIONS</b>	
<b>SUBJECT: Hiring Sworn Personnel</b>		<b>NUMBER: 1-5</b>	
<b>EFFECTIVE DATE: July 1, 1999</b>		<b>REVIEW DATE:</b>	
<b>AMENDS/SUPERSEDES: RR 1-5, October 1993</b>		<b>APPROVED: _____ Chief of Police/Sheriff</b>	
<b>CALEA STANDARDS: 31, 32</b>		<b>VLEPSC STANDARDS: PER.01.01-.05</b>	

## **NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

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## **INDEX WORDS**

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## **I. POLICY**

*[ Your agency ]* strives to obtain the best law-enforcement officers possible to help achieve the department's community-oriented policing goals. To that end, the department shall practice a regimented, rigorous selection procedure while simultaneously affording equal opportunity to everyone regardless of race, creed, color, sex, national origin, sexual orientation, or age. The department does not discriminate against people with disabilities and affords them the same access to employment provided to all citizens. Where possible, the department provides reasonable accommodation to the known disabilities of qualified people. All personnel who participate in screening and hiring applicants shall be guided by fairness, equal opportunity, and consistency in applying the procedures set forth in this order.

## II. PURPOSE

The purpose of this order is to outline minimum hiring requirements for police officers.

## III. DEFINITIONS

### A. Disability

A physical or mental impairment that substantially limits one or more of the major life activities.

### B. Good moral character

The attributes of a prospective employee that enhance his or her value to the department and the goals of community-oriented policing which include honesty, integrity, truthfulness, obedience to the oath of office and the code of ethics, respect for authority, and respect for the rights of others.

### C. Reasonable accommodation

The modification of existing facilities to render them more accessible to and usable by people with disabilities. Also refers to restructuring the job or modifying work schedules to assist in the assignment of a disabled employee.

## IV. PROCEDURES

### A. The minimum qualifications that all applicants for the position of police officer must meet include the following:

1. Age of 21.
2. High school graduate or equivalent.
3. Passing a written examination.

***[Note: Exercise caution in using written examinations. Do not borrow an examination that has been developed for another agency. The written test must be based on a job-task analysis; the agency must be able to show that the examination was developed by a competent authority; the content of the examination must relate to the content of the job; the content of the examination must be representative of the content of the job; and the method of scoring the examination must usefully select applicants who can better perform the job over other applicants. See the discussion under section V below.]***

4. Passing a background investigation which includes the following:

- a. Personal and family history;
  - b. Credit history, including current creditors;
  - c. Education, including all schools attended and degrees or certificates obtained;
  - d. All residences for the past ten years;
  - e. Comprehensive employment history;
  - f. A fingerprint-based criminal history search, including all arrests, locations, dates, and dispositions;
  - g. Traffic summonses and accidents *[Note: Some agencies require applicants to disclose past parking citations.];* and
  - h. An inquiry of family, friends, and associates as to character and reputation, plus an informal interview with the applicant's spouse or "significant other."
5. Passing an interview.
6. Passing a physical examination and an agility test. *[Note: According to Equal Employment Opportunity Commission (EEOC) guidelines, "tests for illegal use of drugs are not medical examinations under the ADA and are not subject to the restrictions on such examinations." Similarly, "physical agility tests are not medical examinations and so may be given at any point in the employment application process." The medical screening (defined by the EEOC as "procedures or tests that seek information about the existence, nature, or severity of an individual's physical or mental impairment, or that seek information regarding an individual's physical or psychological health") shall not take place--nor shall the background investigation be completed-- until after a conditional offer of employment has been accepted.]*
- [Note that the agency must establish job-related standards for employment, defined by the EEOC as "a legitimate measure or qualification for the specific job it is being used for." Standards for hiring must not only be job-related, they must relate to an essential job function.]*
7. Be of good moral character.
- a. Good moral character is determined by a favorable report following the comprehensive background investigation. The interview shall be employed to help evaluate good moral character. Good moral

character ensures compatibility with the department's community-oriented policing goals.

8. Any other standards set by law (*Virginia Code* § 15.2-1705) or by policy of the Criminal Justice Services Board.

***[Note: Many agencies now use psychological screening tools. Note that the Americans With Disabilities Act prohibits any inquiry into the existence, nature, or severity of a disability until after a conditional offer of employment has been made. This prohibition applies to any inquiries, whether by qualified medical practitioners, psychologists, or during background checks, interviews, or polygraph tests, if used. The EEOC's guidelines make clear that psychological tests "that concern the existence, nature, or severity of a disability are prohibited at the pre-offer stage," a category that includes the commonly-used Minnesota Multiphasic Personality Inventory (MMPI) or the California Psychological Inventory (CPI).]***

***[Note: This order does not include the use of polygraph examinations as part of the screening process because of the high rate of error associated with their use.]***

***[Note: Testing and screening of prospective applicants may be conducted by local county or municipal personnel or human resources managers which may have their own policies.]***

- B. The applicant must perform the following:
  1. Complete a written application and submit it to the chief of police/sheriff.
  2. Arrange with the chief of police/sheriff to take the written test and appear for an interview.
- C. The employee assigned to investigate the applicant shall perform the following:
  1. Ask the applicant whether he or she needs reasonable accommodation in order to participate in the application process itself or take any screening test (permitted under the Americans With Disabilities Act). ***[Note: The agency may have to revise or modify an exam or test, or may have to provide a qualified reader or interpreter.]***
  2. Obtain the applicant's driving record from DMV.
  3. Have the applicant sign appropriate release forms.
  4. If the applicant has recently lived outside ***[your county]***, request records checks through agencies in the applicant's previous communities.

5. Obtain references from the applicant's current and past employers.
6. Obtain an NCIC/VCIN criminal history check.
7. Conduct interviews of neighbors near applicant's residences over the past three years.
8. Provide a complete background investigation file to the chief of police/sheriff.
9. Administer the written examination.
  - a. The written exam includes a comprehensive reading/writing component. The applicant must achieve a score of not less than the minimum score established for the test. The department shall maintain documentation of the exam's validity, utility, and adverse impact (see section V below). The department shall maintain examination results.
10. Present the findings to the hiring committee. The hiring committee consists of the chief of police/sheriff, another senior member of the department, and a town/county official.
  - a. The employee conducting the background investigation shall present information on the applicant to the hiring committee with the objective of allowing the committee to form a view of the applicant's morality, integrity, reputation, honesty, dependability, qualifications, experience, associations, emotional stability, prejudice, and loyalty.

D. The chief of police/sheriff shall perform the following:

1. Interview all applicants and make the final selection upon recommendation of the hiring committee.
  - a. During the interview, the chief of police/sheriff shall consider the applicant's appearance (for neatness and cleanliness), mannerisms, judgment, maturity, resourcefulness, and compatibility with community-oriented policing goals.
2. Ensure that the applicant fully understands the selection process and the conditions and procedures for re-application.
3. Make a conditional offer of employment. The candidate must then undergo a physical examination (mandated by § 15.2-1705) and a related inquiry, required by all entering employees in sworn positions. The inquiry may

consist of questions about the ability of the applicant to perform job-related functions.

- a. Further, no conditional offer will be considered final until after a satisfactory medical evaluation and completion of the background investigation. After the conditional offer has been made, the applicant may be asked about previous injuries and workers' compensation claims. *[Note: Post-offer medical questions are legal if all applicants for the same position have had to submit to the same medical examination; information concerning the applicant's medical condition are kept in a separate file from other application forms; and the information is treated as a confidential medical record.]*
4. Ensure that the appointee understands job benefits, health plans, administrative matters concerning overtime and off-duty employment, plus conditions of employment, pension, and disability.
- E. Re-application: Unsuccessful applicants may re-apply after 90 days from the date of last application if a vacancy exists.
- F. Lateral entry.
  1. An already-certified officer in another Virginia agency must meet the criteria set forth above. If accepted for employment, the officer will not be assigned to attend a basic academy, subject to the status of the officer's certification and training. *[Note: Some agencies may assign a laterally-hired officer to duties immediately, but should consider that further evaluation of the officer's capabilities might be warranted. The laterally-hired officer may still require some re-training.]*
  2. The employee assigned to investigate the applicant shall ensure that an applicant with prior law-enforcement experience has not been decertified per §§ 15.2-1707 and -1708.
- G. Disqualification
  1. In disqualifying an applicant following any test or examination, the chief/sheriff must show that
    - a. the applicant cannot perform the essential requirements of the job;  
**and**
    - b. that no reasonable accommodation would enable the applicant to perform the essential requirements of the job.

2. Following a medical examination, an offer of employment may be withdrawn if the applicant poses a "direct threat" in the workplace (per EEOC guidelines, "a significant risk of substantial harm to the individual or others that cannot be eliminated or reduced . . . through reasonable accommodation"). The chief/sheriff must base the threat on medical knowledge, not just speculation.

## V. VALIDATION OF SELECTION PROCEDURES

The department's hiring procedures meet standard tests of validity. The department must be able to validate any selection criteria by showing proof that the process either predicts job performance or detect aspects of prospective candidates' work behavior as related to the position of police officer. The chief/sheriff, in consultation with *[the personnel officer of the department, town, or county]* shall review selection procedures for their validity and utility at least every two years. Departmental hiring procedures meet the following tests of validity:

- A. Validity related to criteria: The selection procedure correlates written test scores with pre-determined criteria. A high correlation of the two demonstrates that the test scores predict job performance.
- B. Validity related to construct: The selection procedure measures the degree to which the candidate has certain required traits or characteristics important in law-enforcement work.
- C. Validity related to content: The selection process is validated by showing that it represents actual job behavior.
- D. Utility: The department's selection processes also demonstrate utility, which refers to the practical value of a component of the selection process based on validity, selection ratio, number of candidates to be selected, and the nature of the job.
- E. Adverse impact
  1. Adverse impact refers to a selection procedure that works to the disadvantage of a racial or ethnic group, or of a sex.
    - a. The department shall reduce adverse impact as much as possible in its hiring procedures.
    - b. The department retains records of hiring tests to monitor adverse impact.

*[Note: Any law-enforcement agency should base its position descriptions and hiring criteria on a job-task analysis. To aid in constructing legally adequate job descriptions, consult the 1997 DCJS document, Performance Outcomes, Training*

**Objectives, Criteria and Lesson Plan Guides for Compulsory Minimum Training  
for Law Enforcement Officers**

**VI. PROBATION**

- A. All newly-hired officers shall be considered on probation for one year from the date of employment. The same probationary period applies to officers hired through lateral entry.
- B. The date of employment for officers generally never exceeds 30 days before the beginning of a basic academy class to which the appointee has been assigned. If the officer begins work before a basic academy, he or she shall perform non-police duties only and shall accompany experienced officers as an observer.
- C. At the end of the probationary period, the chief of police/sheriff shall write a performance evaluation in which he or she must rate the appointee at least a "3" (minimum acceptable performance) in each category of behavior (see the evaluation form in RR 1-6). The chief/sheriff reserves the right to extend the probationary period an extra 90 days because of an unsatisfactory rating. A second unsatisfactory rating, at the end of 90 days, in any category shall provide cause for dismissal. *[Note: Evaluations should be conducted during the probationary period as a proper basis for dismissal, extension of the probationary period, or some other option.]*
- D. The work performance of each probationary employee shall be evaluated using valid, non-discriminatory procedures (see section V above).
- E. Probationary employees who wish to protest their ratings have no grievance rights except to request an interview with the chief of police/sheriff.

**VII. RECORDS**

- A. For each employee, the department maintains a personnel record which includes all forms completed during the hiring process, all evaluations, complaints, commendations, leave/attendance record, and assignments.
- B. The chief of police/sheriff maintains and controls all personnel records. The department complies with the records retention schedule set by the state archivist.
- C. Employees may review their records at any reasonable time upon request. The chief/sheriff may release a record from file upon obtaining a signed receipt from the authorized person with a need to review it.
- D. All personnel records are considered confidential, sensitive information available for review to supervisory or investigative personnel who have a need, as determined by the chief of police/sheriff.



E. If the chief/sheriff deems it necessary to include derogatory information in a personnel file, he/she shall notify the employee of the fact in writing. The employee may protest the inclusion of such information in writing to the chief/sheriff. Probationary employees have no right of protest in such matters.

1. Grievances are discussed under RR 1-10.

F. Personnel records are permanent property of the department.

G. Officers from the department may terminate employment and seek a lateral hire with another agency. Requests for employment information on these officers shall be referred to the chief/sheriff. The chief/sheriff shall disclose the employee's performance record consistent with § 15.2-1709.

1. Any request for information on a present or past employee shall be limited to information contained only in the official personnel file.

***[Note: Agencies may wish to use consent forms which stipulate that the employer may disclose information about the present or past employee without fear of liability because the present or past employee has signed a release from liability for defamation. However, in addition to releasing only that information which is contained in official personnel files, agencies should follow good managerial practices which include giving employees regular, documented performance evaluations and abiding by procedural due-process rules which afford employees a chance to respond to adverse or punitive personnel actions.]***